

REMARKS

The Office Action dated April 7, 2005 has been fully considered by Applicant. Claims 1 and 4 have been currently amended. Claims 2 and 5 have been canceled. Claim 3 has been previously presented.

Attached is a Request for Three-Month Extension of Time and a check in the amount of \$1020 to cover the government extension fee.

Claims 1 and 3-5 have been rejected under 35 USC 102(e) as being anticipated by United States Patent No. 6,785,564 to Quigley et al. Applicant respectfully requests reconsideration of the rejection.

Claim 1 has been currently amended to include a system for transmission of digital data wherein transmission of the digital data is from a broadcast location to a plurality of receiver locations, each receiver location including a broadcast data receiver for the processing of the data and generation of video, audio and/or auxiliary data, each broadcast data receiver includes a data-over-cable service interface system modem, or equivalent. At the broadcast location, or head end of the system, part of the data generated is generated as out-of-band data streams. A transcoder unit is provided at the broadcast location which transcodes data from the out-of-band data stream generated at the head end prior to transmission to the plurality of receiver locations into a format such that, when received by the receiver, the same is received and processed via the data-over-cable service interface system modem to allow transmitted data, including data originally provided as part of the out-of-band data stream, to be received and processed at all times without the broadcast data receiver having an out-of-band tuner. Applicant believes that currently amended claim 1 is novel over the '564 patent to Quigley et al and, therefore, respectfully requests reconsideration of the rejection.

Applicant's disclosure solves the problem of the need for an out-of-band tuner to be provided in each broadcast data receiver which receives digital data provided from a broadcast location, thereby reducing the cost of manufacture of broadcast data receivers. However, in the Quigley '564 patent, the aim is to provide a secondary communication means that will continue to operate at a low power operation.

In Applicant's invention a transcoder located at the broadcast location is in operation at all times. The out-of-band data streams generated by the broadcaster at the broadcast location are processed into a format suitable for reception by a DOCSIS modem provided in each broadcast data receiver. The change in data format occurs via the transcoder after the generation of the out-of-band data stream but prior to the transmission of the data stream to the plurality of broadcast data receivers. Thus, Applicant's system for the transmission of digital data can be implemented without the need for each broadcast data receiver to have an out-of-band tuner since the re-formatted data transmitted by the broadcaster is in a format suitable for reception by a DOCSIS modem. In addition, in Applicant's disclosure the data streams generated by the broadcaster can be received by each receiver at all times.

In the '564 patent to Quigley et al, there is provided a system that utilizes a DOCSIS modem to allow a two-way communication system to continue to operate when the apparatus is in low power operation. Thus, in a normal operating mode of the '564 Quigley et al patent, the primary communication channel will operate but when the receiver is brought down to a low power operation mode, the primary communication channel does not operate.

Thus, to a skilled person reading the '564 Quigley patent, there is disclosed a system whereby communication can be maintained even when the system is operating on a low power format. In Quigley, this is achieved by disabling one or more primary communication channels of a first

transceiver, disabling one or more connected peripheral devices while the primary communication channel is disabled and then receiving messages from a second transceiver transmitted on a secondary communication channel. The purposes of this is that messages which are received using the secondary communication channel are used to restore normal operating conditions where an unscheduled, high priority activity arrives. Thus, data is not always received from both primary and secondary communication channels.

Applicant's aim is to overcome the need for an out-of-band tuner for each receiver and to reduce the cost of manufacture of the receivers. However, in order to comply with operating conditions, out-of-band streams are required to be generated and the data received at any time so as to be compliant with broadcasting standards. The system as disclosed in the '564 patent to Quigley et al could not be used, as it is not fully operational. Keep in mind that the manufacturer of receivers has no control over the out-of-band data streams which are generated. However, in Applicant's disclosure the out-of-band data streams can be generated at any time, regardless of whether the receiver is in low or full power operating conditions. Thus, for receivers to be sold for use, they need to be operable at all times to receive data sent in an out-of-band data stream.

Applicant's invention provides that the transcoder at the broadcast location is operable at all time so that out-of-band data streams generated by the broadcaster at the broadcast location can be processed into a format suitable for reception by a DOCSIS modem provided in the receiver. This change in format occurs via the transcoder, after the generation of the out-of-band data stream but prior to the transmission of the data stream to the plurality of receivers. Thus, Applicant's system can be implemented without requiring alteration of the data streams generated by the broadcaster. Further, in Applicant's invention the data generated can still be received by the receivers at any time. No out-of-band tuner is required in the receivers used in Applicant's system. Therefore, Applicant

sincerely believes that claim 1, along with dependent claims 3 and 4, is novel over the '564 Quigley et al patent and respectfully request reconsideration of the rejection.

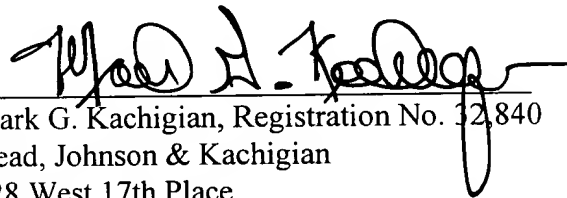
Claim 2 has been rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 6,785,564 to Quigley et al in view of United States Patent No. 6,757,909 to Mauro et al. Claim 2 has been currently canceled.

Applicant believes that the claims as currently amended are novel over the cited reference and respectfully requests reconsideration of the rejection.

It is believed that the application is now in condition for allowance and such action is earnestly solicited. If any further issues remain, a telephone conference with the Examiner is respectfully requested. If there are any charges associated with this amendment, the Examiner is hereby authorized to charge such charges to Deposit Account No. 08-1500.

HEAD, JOHNSON & KACHIGIAN

Respectfully submitted,



Mark G. Kachigian, Registration No. 32,840
Head, Johnson & Kachigian
228 West 17th Place
Tulsa, Oklahoma 74119
(918) 587-2000
Attorneys for Applicant

Date: 5 October 2005